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Temujin Labs Inc., a Cayman Islands corporation  
9 and the Individual Defendants

10  
11 **UNITED STATES DISTRICT COURT**  
12 **NORTHERN DISTRICT OF CALIFORNIA**  
13 **SAN JOSE DIVISION**

14 ARIEL ABITTAN

15 PLAINTIFF,

16 v.

17 LILY CHAO (A/K/A TIFFANY CHEN, A/K/A  
YUTING CHEN), DAMIEN DING (A/K/A  
DAMIEN LEUNG, A/K/A TAO DING),  
18 TEMUJIN LABS INC. (A DELAWARE  
CORPORATION), AND TEMUJIN LABS INC.  
19 (A CAYMAN CORPORATION),

20 DEFENDANTS,

21 and

22 EIAN LABS INC.,

23 NOMINAL DEFENDANT.  
24  
25  
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Case No.: 5:20-CV-09340-NC

**DEFENDANTS' TEMUJIN LABS INC., A  
CAYMAN ISLANDS CORPORATON'S  
AND INDIVIDUAL DEFENDANTS'  
OPPOSITION TO PLAINTIFF'S  
MOTION FOR LEAVE TO FILE  
AMENDED COMPLAINT**

Date: March 30, 2022  
Time: 1:00 p.m.  
Place: Courtroom 5, 4th Floor  
Judge: Hon. Nathanael Cousins

**OPPOSITION**

**I. INTRODUCTION**

Plaintiff Ariel Abittan (“Abittan”) filed his Motion for Leave to File Amended Complaint after the Court denied his Motion to Stay this action and while awaiting a potentially negative ruling on the pending Motion to Dismiss filed by Defendant Temujin Labs Inc. (A Cayman Corporation) (“Temujin Cayman”). Abittan has been aware of the defects in his Complaint since at least the time that Temujin Labs Inc. (A Delaware Corporation) (“Temujin Delaware”) filed a Motion to Dismiss in March of 2021. Yet, Abittan’s proposed Amended Complaint is still defective for many of the same reasons Temujin Delaware previously identified. Moreover, it is defective for new reasons. Among the many deficiencies is Abittan’s false assertion that Yuting Chen is the same person as Lily Chao.

Given the ongoing deficiencies that Abittan has failed to correct, and the new deficiencies, this Court should deny Abittan’s Motion for Leave to File Amended Complaint. If, however, the Court does permit Abittan to file his proposed Amended Complaint, the Court should require that: (i) any amended Complaint must distinguish between Yuting Chen and Lily Chao, and (ii) Defendants have 30 days to respond to any amended Complaint, rather than the usual 14 days.

**II. ARGUMENT**

More than a year *after* Abittan approved the sale of certain assets in 2019 to Temujin Delaware’s parent company, defendant Temujin Cayman, and just as the blockchain project on which Temujin Cayman and Temujin Delaware had started to work (which they fully developed and named “Findora”) was poised for great success, Abittan began making tortiously false claims that he controlled the project and the associated technology.

In November 2020, Temujin Delaware filed suit against Abittan and various of his co-conspirators in Santa Clara County Superior Court to prevent further tortious interference, and to recover damages for injuries inflicted by Abittan’s attempted sabotage of the Findora project.

In a transparent attempt to deflect from his misdeeds, Abittan subsequently filed this suit

1 against Temujin Delaware<sup>1</sup>, Temujin Cayman, and the individual defendants, making the revisionist  
 2 claim that the sale of assets was procured by fraud. This assertion is irredeemably flawed, first and  
 3 foremost because nothing was concealed from Abittan. Abittan reviewed and was aware of the terms  
 4 of the agreement when he approved the asset sale to Temujin Cayman in his capacity as a  
 5 shareholder of a different entity called Eian Labs Inc. Abittan has also held himself out to be Eian’s  
 6 CEO and purported “[o]n information and belief” to be an Eian director. To the extent he *now* claims  
 7 he did not understand the terms of the sale – purportedly because he was in a hurry to catch a plane  
 8 and did not read the sale documents carefully – this would merely reflect a breach of *his* fiduciary  
 9 duties to Eian. While Abittan may now regret his decisions, or the lack of any role for him on the  
 10 Findora project, no facts are pleaded in the Complaint or the proposed Amended Complaint that  
 11 show fraud. Abittan’s vague claims of a continuing “ownership” interest are unsupported by any  
 12 agreement and are contradicted by the asset sale agreement he approved. That is not the basis for any  
 13 lawsuit, much less one with sensationalized, but deficient, allegations including as to fraud,  
 14 conspiracy and “racketeering.”

15 Recognizing that Abittan could not sustain his deficient derivative claims on behalf of Eian,  
 16 as set out in Temujin Delaware’s and Temujin Cayman’s motions to dismiss (ECF Nos. 36 and 109),  
 17 Abittan has now dropped those claims. However, the remaining claims and the new claims in his  
 18 proposed Amended Complaint are still hopelessly defective, including for the reasons previously set  
 19 out in those motions to dismiss (*Id.*)

20 As explained in Temujin Cayman’s motion to dismiss (ECF No 109), the original  
 21 Complaint—and now similarly the proposed Amended Complaint—conflates claims against  
 22 Temujin Cayman with those against other defendants, blurring the lines between the entity and the  
 23 individual defendants. In the Ninth Circuit, as elsewhere, “group pleading” of this sort is not  
 24 permitted. The prohibition applies with particular force here given that Abittan’s claims sound in  
 25 fraud and are subject to heightened pleading requirements. No particularized facts are alleged  
 26 demonstrating what Temujin Cayman did to further any alleged fraud (e.g., who said what and had  
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28 <sup>1</sup> The Complaint was dismissed as to Temujin Delaware by this Court’s July 19, 2021 Order (ECF No. 78).

1 authority to speak for whom). Nor could Abittan plead such facts. Temujin Cayman *did not exist*  
2 until July 2019, years after all or virtually all of the alleged wrongdoing alleged in multiple causes of  
3 action purportedly pleaded against it.

4 Moreover, the array of other existing and new claims Abittan purports to allege, including,  
5 among others, civil RICO, conversion, unjust enrichment, and for an “accounting,” suffer from other  
6 defects and fail to state a claim against Temujin Cayman. Likewise, there are substantial deficiencies  
7 in the claims asserted against the individual defendants, including but not limited to the wrongful  
8 assertion that Yuting Chen and Lily Chao are the same person. They are not. See ECF 74. As such,  
9 the proposed Amended Complaint is ambiguous, unintelligible, and incomprehensible.

10 Abittan has been aware of the substantial number of these defects in his original Complaint  
11 since at least March 2021, when Temujin Delaware filed its motion to dismiss (ECF No. 36).  
12 Although the Court dismissed the claims against Temujin Delaware on the basis that they should  
13 have been brought as a compulsory counterclaim in the prior state court action filed by Temujin  
14 Delaware (see ECF No. 78), that motion to dismiss also set out the reasons why Abittan’s entire  
15 Complaint was defective (ECF No. 36). Then on November 8, 2021, Temujin Cayman filed its  
16 motion to dismiss (ECF No. 109) that also explained in detail the pleading defects against Temujin  
17 Cayman.

18 None of the pleading defects identified in the prior motions to dismiss (ECF Nos. 36 and  
19 109) have been cured in the proposed Amended Complaint. Indeed, the proposed Amended  
20 Complaint merely compounds the defects by adding new claims that are also defective.  
21 Furthermore, Temujin Delaware and another cross-defendant in the Santa Clara Superior Court  
22 action have filed a demurrer—the state law equivalent to a motion to dismiss—to Abittan’s cross-  
23 complaint in that action, which has not yet been decided.

24 Thus, Abittan’s assertion in his Motion for Leave to Amend that he does not seek to amend  
25 “in bad faith” rings hollow in view of the multiple ways that the deficiencies of his claims have been  
26 drawn to his attention and which he has blatantly ignored in requesting leave to file the proposed  
27 Amended Complaint.

28 In addition, contrary to Abittan’s assertions, defendants will be prejudiced by having to

1 defend Abittan's claims in this case as well as those in the prior-filed state court action.

2 For these reasons, defendants respectfully request that the Court deny Abittan's Motion for  
 3 Leave to Amend. In the event that the Court does permit Abittan to file an amended Complaint,  
 4 Defendants request that leave to amend be subject to the following conditions, that: (i) any amended  
 5 Complaint must distinguish between Yuting Chen and Lily Chao, and (ii) Defendants have 30 days  
 6 to respond to any amended Complaint, rather than the usual 14 days.

7 To the extent that Abittan is permitted to file an amended complaint along the lines of the  
 8 proposed Amended Complaint, Defendants anticipate filing a motion to dismiss regarding the  
 9 defective claims.

### 10 **III. CONCLUSION**

11 For the reasons set out above, Defendants respectfully request that Abittan's Motion for  
 12 Leave to Amend be denied. If Abittan is permitted to file an amended Complaint, Defendants  
 13 request that leave to amend be subject to the following conditions, that: (i) any amended Complaint  
 14 distinguish between Yuting Chen and Lily Chao, and (ii) Defendants have 30 days to respond to any  
 15 amended Complaint, rather than the usual 14 days.

16  
 17 DATED: March 9, 2022

Respectfully submitted,

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 20  
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